

REMARKS

Prior to this Response, an Office Action was mailed November 3, 2004. In the Office Action, regarding the Drawings, the Commissioner objected to the Drawings and, regarding the Claims, the Commissioner rejected Claims 1-6 under Section 103(a).

In this Response, regarding the Claims and the Drawings, Applicant amended Claim 1, 3, 4 and 6 and directed remarks to and traversed the Section 103 rejections, and further made amendments which would render the rejections and objections moot, and further submits new claims 7 and 8.

No amendment made was related to the statutory requirements of patentability unless expressly stated herein. No amendment made was for the purpose of narrowing the scope of any claim, unless Applicant has argued herein that such amendment was made to distinguish over a particular reference or combination of references.

Claims 1-8 are now pending in the present application. Reconsideration is requested. In addition to the above amendments, the Applicant makes the following remarks regarding individual issues:

THE APPLICANT'S TIME TO RESPOND

The last Office Action was mailed on November 3, 2004. The three-month initial deadline for responding without having to pay a penalty fee ends on February 3, 2005. This response is filed timely within that time period. In determining whether this document is timely filed, the Patent Office is asked to note the Applicant's Certificate of Mailing in conjunction with 37 C.F.R. § 1.8.

THE DRAWINGS OBJECTION

The Commissioner objected to the Drawings as not showing a mount connected at an "acute angle" as opposed to a parallel or perpendicular angle. The Amendments made renders the objection moot.

THE SECTION 103(A) OBVIOUSNESS REJECTION

The Commissioner rejected Claims 1-4 under 35 U.S.C. § 103(a) as unpatentable over U.S. Patent 6,575,312 to Santa Cruz et al. (hereinafter "Santa Cruz"). The Commissioner rejected Claims 5 and 6 under 35 U.S.C. § 103(a) as unpatentable over Santa Cruz in view of U.S. Patent 3,667,712 to Furgueson (hereinafter "Furgueson").

In the case of a Section 103(a) obviousness rejection, it is the Patent Office's initial burden to put forward a prima facie case, without which the Applicant is not required to submit evidence of nonobviousness. MPEP 2142, 2143; In re Mayne, 41 U.S.P.Q.2d 1451, 1453 (Fed. Cir. 1997). The prima facie case requires:

"First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations. The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art, and not based on applicant's disclosure."

MPEP 2143. Section 103 requires analysis of a claimed invention as a whole:

"It is true that [the claimed invention] consists of a combination of old elements so arranged as to perform certain related functions. It is immaterial to the issue, however, that all of the elements were old in other contexts. What must be found obvious to defeat the

patent is the claimed combination. ... Focusing on the obviousness of substitutions and differences, instead of on the invention as a whole, is a legally improper way to simplify the often difficult determination of obviousness."

The Gillette Co. v. S.C. Johnson & Son Inc., 16 USPQ2d 1923 (Fed. Cir. 1990).

"It is impermissible within the framework of section 103 to pick and choose from any one reference only so much of it as will support a given position to the exclusion of other parts necessary to the full appreciation of what such reference fairly suggests to one skilled in the art."

Bausch & Lomb, Inc. v. Barnes-Hind/Hydrocurve, Inc., 230 USPQ 416 (Fed. Cir. 1986).

With respect to the Santa Cruz rejection of Claims 1-4, Santa Cruz discloses a support bracket with an elongated channel sized to slidably receive and retain externally threaded attachment plugs to which garden attachments can be screwably attached. See Santa Cruz col. 2, Ins. 40-50. Santa Cruz emphasizes that it is "very important" that the attachment plugs have a hexagonal or square shaped base to avoid turning within the elongated channel. See Santa Cruz col. 3, Ins. 1-6.

With respect to the Santa Cruz/Furgueson rejection of Claims 5 and 6, Furgueson teaches a nozzle storage unit including a nozzle support and a bracket for attaching the nozzle storage unit to a hose or to a vertical or horizontal surface. See Furgueson col. 1, Ins. 53-64, col. 2, Ins. 59-66 & figure 1. The inventions of Santa Cruz and Furgueson as shown and described cannot be combined in the manner suggested by the Commissioner. The design of Furgueson precludes a channel systems as in Santa Cruz, there would be no way to attach the attachment plugs of Santa Cruz to Furgueson. Moreover, the

construction of Santa Cruz would preclude the aperture configuration of Furgueson. The combination simply will not work.

In the present invention, the Applicant states that: "Mounts can be configured such that threaded portion is positioned to attach a garden hose attachment A parallel to the wall W, shown at reference 14, or perpendicular to the wall, shown at reference 15." See Specification p. 4, Ins. 14-19 & Figure 1.

The reason for providing that the threaded portion on the mounts can be position such that the garden hose attachments can be attached parallel to the wall, is that some garden hose attachments, such as a sprinkler head, if attached perpendicular to the wall, as provided in Santa Cruz, would stick straight out and be a safety risk for anyone walking around the yard, and moreover, would put significant forces on the mounting rack that would tend to pull the rack out of the wall. This is a significant and novel advantage over prior art, which is not taught by prior art.

The rejections are respectfully traversed as to all these claims. It is requested that the rejections by withdrawn. Nevertheless, Claims 1, 3, 4, and 6, have been amended as follows:

1. A hose attachment organizer, comprising:

a rack, having a face, attachable to a wall;

a plurality of mounts connected to the rack, each mount having threads mateable to a garden hose attachment, wherein one or more of said mounts is connected to said rack at an acute angle in relation to the face of said rack has said threads positioned to attach a garden hose attachment parallel to said wall.

3. The organizer of claim 1, wherein all of said mounts are connected to said rack ~~at an acute angle in relation to the face of said rack~~ have said threads positioned to attach a garden hose attachments parallel to said wall.
4. The organizer of claim 2, wherein all of said mounts are connected to said rack ~~at an acute angle in relation to the face of said rack~~ having said threads positioned to attach a garden hose attachment parallel to said wall.
6. A hose attachment organizer, comprising:
 - a rack, having a face, attachable to a wall;
 - a plurality of mounts connected to the rack, each mount having threads mateable to a garden hose attachment, wherein said mounts are connected to said rack ~~at an acute angle in relation to the face of said rack~~ have said threads positioned to attach a garden hose attachments parallel to said wall;
 - screw holes in and through said rack; and
 - screws insertable through said screw holes.

The amendments are supported in the Specification at page 4 and Figure 1, as discussed above. It is believed that the present amendments renders the rejections moot.

As such, it is respectfully requested that the rejections be withdrawn.

NEW CLAIMS 7 AND 8

Applicant submits new claims 7 and 8, as shown on page 3. The claims are supported in the Specification at page 4 and Figure 1. A fee for the new claims is provided herewith.

CONCLUSION

For the foregoing reasons, reconsideration and allowance of Claims 1-8 of the application as amended is solicited. The Commissioner is encouraged to

telephone the undersigned at (360) 750-9931 if it appears that an interview would be helpful in advancing the case. The Applicant respectfully submits that the rejection of the pending claims must be withdrawn, and that this application is in condition for allowance. Such is earnestly requested.

Respectfully submitted,



KURT M. RYLANDER
USPTO Reg. No. 43,897

KURT M. RYLANDER TRIAL AND
PATENT ATTORNEY AT LAW PC
1014 Franklin Street, Suite 206
Vancouver, Washington 98660
360.750.9931